UNITED NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/CN.4/1996/SR.24
11 April 1996

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Fifty-second session

SUMMARY RECORD OF THE 24th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 3 April 1996, at 10 a.m.

Chairman: Mr. VERGNE SABOIA (Brazil)

CONTENTS

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF CANADA

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-11958 (E)

CONTENTS (continued)

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES;

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (continued)

The meeting was called to order at 10.10 a.m.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF CANADA

1. Mr. AXWORTHY (Canada) said that the approach to the fiftieth anniversary of the Universal Declaration of Human Rights had already witnessed some considerable victories, such as the transformation of South Africa from a State based on apartheid to a non-racial democracy, the steady progress towards democracy in many parts of Latin America, the difficult emergence of democracy in Haiti, and the democratic enfranchisement of hundreds of millions of people in Russia and Eastern Europe. It had, however, also witnessed outrageous situations such as oppression and corruption in Nigeria, gross violations of human rights in countries like Myanmar, and ethnic cleansing in the former Yugoslavia, while Somalia, Liberia, Afghanistan and many other places that had once been viable countries provided grounds for anxiety and concern.

2. Governments could not act alone in promoting and protecting human rights. The energies of civil society should be harnessed as well. Some business organizations and coalitions were already working on positive action to promote labour standards and human rights on a global basis through such means as voluntary codes of conduct, human resource strategies, and support for according government-subsidized investment only to areas with satisfactory human rights records. Consumers were another powerful force for the advancement of human rights. For example, consumer labelling such as the "rugmark" scheme allowed purchasers to choose products which did not involve exploited child labour.

3. Nevertheless, the finest constitutional or legal texts meant very little unless there was a body capable of monitoring performance and available to help citizens whose rights were in jeopardy. National human rights agencies or similar bodies were the most effective way of realizing that objective.

4. Terrorism seemed to have taken on a new life and must be countered in the most forceful ways possible consistent with human rights standards. The key to effective action was to starve terrorist organizations of their money and arms. Canada, like many other countries, was considering ways of stemming the flow.

5. Another important issue was that of armed opposition groups within countries, which often committed atrocities as grave as those committed by Governments. The international community must condemn atrocities wherever they occurred, irrespective of their perpetrators. Respect for the right to life was not a responsibility of Governments alone.

6. A closely related issue was the resurgence of hate-mongering, facilitated by new communications media. The link between terrorism in Oklahoma, Jerusalem and Rwanda was that acts of violence had been preceded by the verbal demonizing of an identifiable part of the community. Words could constitute a form of assault and were almost always the opening salvos of war. To combat such hate-mongering, Governments must use the electronic media to spread the message of democracy and good governance and must not leave them open to those who would use them to spew hatred and prejudice. Canada could make two

important contributions to that effort, one based on its jurisprudence relating to the definition of "hate" and its propagation and the other based on its telecommunications expertise.

7. His Government had long been committed to promoting the rights of women and had taken the lead in proposing the appointment of a special rapporteur on violence against them. However, while proud of its international action in that regard, it must continue to work to eliminate violence and discrimination on the domestic front.

8. Protection of the rights of children was a priority item in his Government's foreign policy. Although the international community had promptly ratified the Convention on the Rights of the Child, children's rights were being massively violated daily around the globe. Action on specific issues was required. His Government hoped that agreement would soon be reached on an optional protocol to the Convention on the prevention of the sale of children, child prostitution and child pornography and was ready to introduce legislation that would permit the prosecution in Canada of Canadians who went abroad to engage in such activities. By extending Canadian jurisdiction to acts committed by Canadians abroad, the new legislation would squarely address the problem posed by sex tourism involving children.

9. However, laws without the means to enforce them were of limited use. The International Labour Organization (ILO) and other agencies would need to find ways of giving effect to international obligations. Canada had just made a special financial contribution to ILO for that purpose.

10. His Government attached great importance to aboriginal concerns and welcomed the Commission's recent decision to include a separate item on indigenous issues in its agenda.

11. The availability of resources was a major consideration in any reform and renewal of the human rights programme. The financial crisis currently facing the United Nations created a strange paradox whereby countries which expressed great support for the global human rights agenda were none the less in arrears with their payments to the Organization. Moreover, the 2.26 per cent of the regular budget currently devoted to human rights was surely not in keeping with the range of human rights issues and challenges.

12. The experience of Rwanda had highlighted the need for more effective coordination among the different parts of the United Nations and for an early-warning, rapid-reaction and prevention system that would respond promptly to impending large-scale human rights abuses. The possibility of establishing a small, high-calibre unit under the High Commissioner for Human Rights to analyse and interpret indications of genocide and other escalating human rights violations should be explored.

13. In Rwanda and the former Yugoslavia, human rights work was essential to the establishment of a just and lasting peace. He was therefore pleased to announce that his Government would contribute a further $500,000 to the human rights field operation in Rwanda and $300,000 to the programme of operations in the former Yugoslavia.

14. To be both effective and relevant, the United Nations must move from a system based solely on the interests, priorities and responsibilities of States to one that responded to the needs of the citizenry as well. In any case, unless the international community faced up to the challenges before it, harsh consequences would have to be endured later.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES;

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (agenda item 8) (continued) (E/CN.4/1996/5, 28, 29 and Add.1, Add.2 and Add.3, 30, 31 and Add.1, 32 and Add.1, 33 and Add.1, 34, 35 and Add.1 and Corr.1 and Add.2, 36-38, 39 and Add.1 and Add.2, 40 and Add.1, 41, 121, 122, 123, 124, 133 and 143; E/CN.4/1996/NGO/10, 24-26, 36, 46, 55 and 61; E/CN.4/Sub.2/1995/20 and Corr.1 and Add.1, 30 and Add.1; E/CN.4/1995/100; A/50/512).

15. Mr. CUMARASWAMY (Special Rapporteur on the independence of judges and lawyers), introducing his report (E/CN.4/1996/37), said it was lamentable that special rapporteurs were expected to compress their reports to a mere 32 pages. Resources should be made available to the Conference Services Division to enable its staff to translate such reports, even when they exceeded the maximum number of pages allowed.

16. The report gave an account of his activities in the past year, a list of theoretical issues of special importance and reports on situations in some 23 countries which he had approached following specific complaints. Progress continued to be made in his interactions with non-governmental organizations (NGOs), which served as vital links for gathering and disseminating information. He made every effort to coordinate with the various United Nations procedures on human rights so as to avoid duplication of efforts and conserve resources. The Advisory Services, Technical Assistance and Information Branch of the Centre for Human Rights contributed greatly to the enhancing of judicial independence in developing democracies and more resources should be channelled to that Branch's programmes.

17. Section IV.A of the report described his missions to Colombia and Peru to look into the use of "faceless" judges there. He had also conducted research into relations between the media and the judiciary, independent mechanisms for the appointment of judges, commercialization of the legal profession and the resolution of conflicts between the legal profession and the judiciary. He intended to give additional attention in future to the problem of corruption in the judiciary.

18. The right to independent justice was fundamental to the rule of law and, protected all other human rights. Unfortunately, threats to judicial independence and attacks on judges and lawyers occurred throughout the world, irrespective of development status. Statistics correlated by the Centre for the Independence of Judges and Lawyers were disturbing. In 1995, 336 attacks on judges and lawyers in 49 countries had been recorded, 23 of them having been killed, 36 tortured and 142 detained, while 4 had disappeared. Turkey was the country with the largest number of lawyers detained. There were also reports of recent attacks on the independence of the judiciary in India, the United Kingdom and the United States of America. Those events showed that judicial independence was fragile and was not safe in any country. Hence the need for closer international surveillance.

19. Mr. RODLEY (Special Rapporteur on the question of torture), introducing his report (E/CN.4/1996/35 and Adds. 1 and 2), said restrictions on the length of documents submitted for translation had compelled him to agree to a substantial change in the format of his report. While the summaries of general allegations and of government responses thereto (E/CN.4/1996/35) had been translated into all the official languages of the United Nations, the summary of communications transmitted to Governments and replies received (E/CN.4/1996/35/Add.1) appeared only in one of three of those languages - the language in which the correspondence had been conducted (English, French or Spanish). Speakers of the other official languages would unfortunately be deprived of any access to that information. However, the only way of avoiding that interference with knowledge would have been so to eviscerate the report as to interfere even more radically with its function as a source of information and accountability to the Commission, the United Nations and the public at large.

20. The very limited resources which the Secretariat had been able to make available had precluded his undertaking all the research and analysis that was required by his mandate.

21. Section I of document E/CN.4/1996/35 covered his mandate and methods of work. The mission to Pakistan, described in paragraph 5 as having been postponed, had finally taken place in February-March 1996. The concerns prompting the request for the mission had been amply and disturbingly confirmed. Dates had been fixed for his visit to Venezuela. No invitations had been received from any of the other Governments mentioned in paragraph 5.

22. As a follow-up to the Commission's request, he had paid special attention to torture disproportionately or primarily directed against children. The passage in his report on that subject (paras. 9 to 17) did not make pleasant reading, and he was astonished that any self-respecting Government could allow such practices to continue.

23. Section II of the report contained country-by-country entries and should be read in conjunction with the entries in document E/CN.4/1996/35/Add.1. The country entry for Chile should, however, be read together with his mission report (E/CN.4/1996/35/Add.2).

24. Section III of the report set out his conclusions and recommendations. It would be noted that, while most Governments tended to respond to his

communications, the type of information he required to assess the value of those responses was often still lacking. He hoped that the report would contribute to the Commission's efforts to bring the practice of torture to a speedy end.

25. Mr. TORELLA di ROMAGNANO (Italy), speaking on behalf of the European Union, the Central and Eastern European countries associated with the Union and the associated countries of Cyprus and Malta, said, although the United Nations had always paid special attention to the need to eradicate torture, there was ample evidence of its systematic and widespread use. It was disturbing, therefore, that about half the member States had not ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Governments should adapt their legislation to the Convention's provisions and recognize the competence of the Committee against Torture to receive communications from States and individuals under articles 21 and 22 of the Convention.

26. The Union commended the Special Rapporteur on the question of torture on the detailed findings and recommendations in his report (E/CN.4/1996/35 and Add.1 and 2). It noted with satisfaction the special attention he had devoted to the problem of torture directed against women and children. It urged Governments, especially those that he had approached, to invite the Special Rapporteur to pay a visit so that he could fulfil his mandate even more effectively.

27. The Union was deeply concerned about impunity, which impeded the effective elimination of systematic and gross human rights violations by government agents. Impunity must be countered by the establishment of sound, efficient and impartial judicial systems.

28. Prevention was also of great importance in efforts to eradicate torture. Full implementation of article 10 of the Convention was thus needed and every possible effort must be made to ensure early adoption of an optional protocol to the Convention whereby a system of regular inspections of places of detention would be established.

29. While the State bore primary responsibility for providing adequate rehabilitation and compensation for victims of ill-treatment and their families, all Governments should contribute generously and regularly to the United Nations Voluntary Fund for Victims of Torture.

30. The Secretariat should provide the Special Rapporteur, the Committee against Torture and the Voluntary Fund with all the necessary assistance.

31. Mr. FALLET (Observer for the International Committee of the Red Cross (ICRC)), having emphasized the need to avoid duplication and waste and to refrain from assigning work that was already being done under existing mechanisms to other bodies, said that the situation of detainees had worsened in countries that had experienced armed conflict, such as Rwanda. An early agreement as to which organizations were responsible for which particular tasks, in such delicate situations was thus important. In that connection, he welcomed recent initiatives to improve coordination in the field and cooperation that safeguarded the modus operandi of each partner.

32. ICRC welcomed any initiative to combat torture, particularly the mechanism proposed in the draft optional protocol to the Convention, which should provide a number of basic guarantees. It should not, however, encroach upon existing mandates. The arrangements for specific missions should therefore complement the visits which ICRC had been making for decades in armed conflicts and situations of internal violence. Those visits, which tended to secure real and lasting protection for detainees, were made at regular intervals, and made it possible to follow up detainees individually and establish a permanent dialogue with the authorities holding them. That method of regular protection should be preserved in parallel with any mechanism for specific visits that might be created. Such missions should be entrusted to independent experts specializing in protection and care should be taken to ensure that they had access to all places they chose to visit in the State party in question and to all persons being held in them.

33. The search for missing persons was a painful humanitarian problem in many settings, particularly in the former Yugoslavia. The objectives of the international community were clear; to shed light on the circumstances in which the disappearances had taken place, to enable the International Criminal Court on the former Yugoslavia to identify and prosecute the perpetrators of crimes committed and also to end the sufferings of the families of missing persons.

34. The search for persons missing in armed conflicts and the restoration of family ties were fields in which ICRC had a wealth of experience. In the former Yugoslavia, it had established extensive data-gathering networks and had been able to respond to inquiries by many thousands of distressed families. As a result of its neutrality and independence, it was able to guarantee strict confidentiality, which was important because persons possessing the necessary information were often afraid to speak out.

35. Those considerations had led the parties to the Dayton Agreement to confirm ICRC's mandate for tracing missing persons. ICRC presided over a working group on the subject and had initiated an Expert Group bringing together the various organizations concerned with missing persons, under the auspices of the High Representative.

36. In conclusion, ICRC considered that existing mechanisms were sufficient and that no new ones were needed. What was required was the political will. The Commission should invite the parties to cooperate within the governmental mechanism established by ICRC and with the bilateral Commission established by the Republic of Croatia and the Federal Republic of Yugoslavia, auxiliary to the Dayton Agreement.

37. Mr. NOWAK (Expert on the special process dealing with missing persons in the former Yugoslavia), introducing his report (E/CN.4/1996/36), said that the fate of more than 30,000 missing persons in Croatia and in Bosnia and Herzegovina represented one of the most serious and largely unresolved human rights problems in the former Yugoslavia. With the signing of the Basic Agreement on Eastern Slavonia and the Dayton Peace Agreement on Bosnia and Herzegovina, there was a possibility that lasting peace would be achieved, but peace had to be built on respect for human rights.

38. The prevention of future human rights violations would not be a sufficient basis for it, because of the magnitude of the violations committed over the past five years and because the relatives of missing persons expected the international community to establish the truth. Unless the truth was known and the fate of the missing persons established, it would be difficult for the various ethnic and religious communities to start a process of reconciliation, and without reconciliation no lasting peace would be achieved.

39. The two Agreements that had been signed provided for various mechanisms to deal with the current human rights situation, but the main responsibility for dealing with past human rights violations continued to rest with the United Nations, more particularly the International Criminal Tribunal.

40. His past efforts to carry out his mandate had been hampered by the uncooperative attitude of the Federal Republic of Yugoslavia and of the local Serb authorities in Croatia and in Bosnia and Herzegovina. However, with the signing of the two Agreements, a new situation had emerged and, during his recent visit to Croatia and Bosnia and Herzegovina, he had enjoyed the cooperation of the local Serb authorities. Unfortunately, the Government of the Federal Republic of Yugoslavia still refused to disclose relevant information or to respond to his repeated requests for permission to visit Belgrade. He therefore once again called upon the Commission to urge that Government to cooperate with the special process.

41. Another source of concern was the slow progress made by the bilateral Commission for the tracing of missing persons in Croatia established by the Republic of Croatia and the Federal Republic of Yugoslavia. He had repeatedly offered his assistance to both Governments, but had not succeeded owing to lack of cooperation from Belgrade.

42. During the past year, more than 50 mass graves had been located in Croatia and reports indicated that there might be up to 300 mass graves in Bosnia and Herzegovina. There was increasing pressure from the families of missing persons to excavate mass graves and identify the mortal remains there. With the strong media interest and alleged attempts to disturb mass graves, unrestricted access to them might result in a tainting of the evidence, thereby hampering the efforts of the war crimes investigators as well as those searching for missing persons.

43. Consequently, mass graves had to be located, guarded and excavated without further delay in a professional, impartial and coordinated manner. During his recent visit to the area, all the authorities concerned had helped him in his efforts to perform that task. Most importantly, the authorities of the Republika Srpska had provided him with unrestricted access to suspected mass grave sites in the Srebrenica and Prijedor areas and with authorization to excavate any mass graves in the territory under their jurisdiction.

44. The need to coordinate excavations with the International Criminal Tribunal, ICRC and other bodies had led to the establishment of an Expert Group on Missing Persons and Exhumations. The actual task of excavation, exhumation and identification would be carried out by professional teams of forensic experts, in accordance with Commission resolution 1994/31.

45. The task was a huge one, with financial implications that clearly went beyond the resources allocated to the special process from the United Nations regular budget. There were indications that most of the some 30,000 persons missing in the former Yugoslavia might be buried in mass graves. His long experience in the Working Group on Enforced or Involuntary Disappearances had shown that the relatives of missing persons maintained the hope that their loved ones were alive until their deaths had been proved beyond reasonable doubt. The only way to prove the deaths of persons missing in the former Yugoslavia would be to exhume and identify the mortal remains.

46. That could not be achieved without international assistance and he thus requested the Commission to establish a voluntary fund for the purpose and to call upon all Governments, NGOs and private donors to contribute generously to it. The relatives of the missing persons deserved to have their demands taken seriously, and the special process had been established precisely for that purpose. Once the international community provided the necessary funds, he would do his utmost to establish the truth and to inform the families of the fate of their loved ones.

47. Mr. MADEY (Observer for Croatia) said that the Commission should exert more pressure on those possessing information on the fate of the 30,000 missing persons in the territory of the former Yugoslavia, 2,800 of whom had disappeared in Croatia and the rest in Bosnia and Herzegovina. Each case represented an individual destiny; collectively, they represented a possibility of forgetting the past and building for the future.

48. Over the years, his Government had made enormous efforts to establish the fate of those persons, working with a number of United Nations and other bodies, with politicians and with associations of families of missing persons. He wondered, therefore, whether the Commission should spend its time discussing secondary matters, when there was real work to be done. The special process had been operating for two years, with very modest results to date, but the settling of a single case would justify its existence.

49. Recent developments, such as the signing of the Dayton Peace Agreement and the Basic Agreement on Eastern Slavonia and the discovery of many mass graves, had changed the situation and had given rise to a number of logistic and financial problems. There had been a commitment by all parties under the Dayton Peace Agreement and bilateral agreements to release all detainees and to do their utmost to establish the fate of the missing persons. All the mass graves would have to be excavated in the coming months, a costly task which must be carried out by experts. Funds would have to be provided generously from all sources.

50. His Government fully endorsed the Expert's proposal that a multilateral commission on missing persons be established. While parallel activities already existed, such as the recently established ICRC working group, a multilateral and coordinated approach could usefully complement those efforts.

51. Despite its promises, the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) had refused to cooperate with the Commission's Expert or to make use of the special process mechanism, and had accused the Expert of producing a biased report. It had adopted a similar

approach in bilateral contexts. While some data had been exchanged and some cases clarified, it refused to make available documentation on nearly 3,000 missing persons, 1,800 of whom had disappeared near Vukovar, including over 200 Croats taken forcibly from the hospital, a crime that was currently being prosecuted by the International Tribunal. Consequently, the international community must bring pressure to bear on that Government to force it to cooperate.

52. The problem of missing persons was not, of course, confined to the territory of the former Yugoslavia. Various Governments had approached the United Nations for help in that area and it was important to define how assistance could best be provided to those seeking it. In that connection, he mentioned a number of cases that his Government had brought to the attention of the Secretary-General and the Commission. The agonies of the families concerned were worsened by the fact that the Serb authorities in Bosnia and Herzegovina were deliberately obstructing the release of prisoners.

53. According to the report of the Secretary-General on the status of the Convention against Torture (E/CN.4/1996/34), "Yugoslavia" was listed as a signatory to the Convention against Torture on 18 April 1989 and its instrument of ratification had been received on 10 September 1991. In that connection, he wished to reiterate that the former Yugoslavia had ceased to exist and that none of its five successor States could automatically claim its membership of international organizations. The Secretariat had recently made some mistakes in that regard, influenced by efforts to create conditions under which the Federal Republic of Yugoslavia could circumvent the resolutions and opinions of international bodies and claim automatic succession for itself alone.

54. Mr. BIJEDIC (Observer for Bosnia and Herzegovina) said that the number of missing persons in his country was conservatively estimated at 30,000. Primary responsibility for that unprecedented tragedy rested with those who had engaged in military interventions against the Republic of Bosnia and Herzegovina and the Republic of Croatia and had planned and carried out the ethnic cleansing of Bosnian Muslims, Bosnian Croats and other non-Serbs. Those persons were still in power in the occupied part of Bosnia and Herzegovina and in Serbia and Montenegro. Under the peace agreements, they were even benefiting from a kind of amnesty. While they were still in power it was difficult to find democratic solutions to the problems of the victims.

55. Many of the victims had been murdered and buried in mass graves, of which more than 300 had been discovered in Bosnia and Herzegovina, or had been subjected to mistreatment, forced to work in the factories and hospitals or forced to emigrate to remote places. International humanitarian organizations had even assisted in the latter process, in line with their policy of appeasement.

56. In an effort to appease all sides, the Special Rapporteur had failed in her report on the situation of human rights in the territory of the former Yugoslavia (E/CN.4/1996/63) to make any mention of the fate of the 800 persons from Srebrenica and Zepa who had been held in protective custody

and had then disappeared from camps in Serbia. The search for those missing persons must be well-organized, well-coordinated, impartial, and based on the inalienable right of families to know the truth about their missing relatives.

57. His delegation fully supported the work of the Expert on the special process. While only modest results had been achieved thus far, conditions in the region were improving, which should make it easier for the special process to operate. It was therefore imperative to resolve any logistic and financial problems that remained and, to that end, a voluntary fund should be established.

58. He was in favour of establishing a multilateral commission on missing persons, even though it might parallel work already being done by ICRC, which did not have the capacity to deal effectively with the huge numbers of missing persons and mass graves. Furthermore, the establishment of a parallel mechanism would put pressure on ICRC to complete its job impartially and in a timely manner. It would also bring pressure to bear on the Belgrade regime, which had thus far been uncooperative.

59. His delegation fully endorsed the views expressed by the previous speaker with regard to the status of the former Yugoslavia and called on the Secretariat to act in accordance with the pertinent United Nations resolutions and decisions.

60. Mr. JOINET (Chairman-Rapporteur of the Working Group on Arbitrary Detention) said that, despite its shortened session - curtailed for budgetary reasons, the Working Group had examined 829 new allegations concerning 28 Governments. He thanked 14 Governments, which he named, for cooperating actively with the Group and mentioned the names of the Governments which had not so cooperated. The Group had adopted decisions with regard to 847 detained individuals and had launched urgent appeals to 38 Governments, 11 of which had released prisoners. It had also examined those Commission resolutions which contained recommendations relevant to its work.

61. In response to requests by some States and NGOs, the Group had instituted a review procedure which would serve as a "safety valve" in the case of disputed decisions which might occasionally occur as a result of the Group's restricted working time and its enormous workload. The review procedure should be used in exceptional circumstances only and the Group had thus attached rigorous conditions of admissibility.

62. The Working Group was mandated to consider only the legality of cases of detention and was not empowered to rule on the treatment of prisoners or their material conditions. Communications regarding the ill-treatment of prisoners must be addressed to the Special Rapporteur on the question of torture or the Special Rapporteur on the independence of judges and lawyers.

63. Owing to budgetary constraints, the Group had had to cancel several planned missions, including its visit to a detention centre for foreigners in Guantánamo. In that connection, it would be helpful if Member States would pay their arrears of contributions so that the Group's work could continue.

64. The Group had failed in its attempts to visit Indonesia and Cuba. The Commission had on several occasions urged the Government of Indonesia to invite special rapporteurs and working groups and, in response to a letter in which that Government reaffirmed its desire to cooperate with United Nations mechanisms, the Group had asked the High Commissioner for Human Rights to use his influence to secure it an invitation. His intervention had, apparently, not been successful since there had been no response thus far from that Government concerned.

65. In its resolution 1994/71, the Commission urged the Cuban authorities to invite the Group and, during his own visit to Cuba, the High Commissioner had obtained an agreement in principle to that effect during a high-level interview. Thus far, however, the Group had received no invitation from the Cuban Government.

66. The Government of Colombia had invited five thematic rapporteurs and working groups, including the Working Group on Arbitrary Detention. The Group had refused that invitation because, in view of the multiple violations of human rights in that country, arbitrary detention was not a priority issue there and because it would be appropriate for the Commission to appoint a country rapporteur. The Group had, however, taken note of the preliminary report submitted by the Government of Colombia in which it described measures taken to promote and protect human rights.

67. As a result of the active cooperation of the Government of Bhutan, the Group would be making a follow-up visit to that country in May 1996. A follow-up visit to Viet Nam was also envisaged, after the forthcoming elections. The system of follow-up visits was an important part of the Group's task and should be developed. The Group would shortly be visiting Nepal and would also be visiting Peru.

68. Contrary to what was stated in the report (E/CN.4/1996/40, para. 42), the Government of the Russian Federation had indeed responded to the Group's request to send a field mission to labour camps in the Federation operated by the Democratic People's Republic of Korea, and consultations would be held to that end.

69. A verbal agreement regarding the Group's field mission to China had been reached in mid-1995. However, tensions had mounted during the current session of the Commission with regard to agenda item 8. The Group wished to remain aloof from all political clashes and hoped that the invitation of the Chinese Government, which had actively cooperated with it, would be confirmed.

70. The Commission should encourage field missions. To that end, it should insist that the question of improving the coordination of missions should be placed high on the agenda of the forthcoming coordination meeting of special rapporteurs and chairmen-rapporteurs of working groups.

71. Mr. FERNANDEZ PALACIOS (Cuba) said that his delegation did not feel bound in any way by Commission resolution 1994/71, which had been adopted by a vote, since it clearly demonstrated the selective manner in which the Commission's work with respect to country situations was carried out. That was why it had not invited the Working Group on Arbitrary Detentions to visit the country,

since cooperation with any United Nations mechanism was subject to the sovereign will of the individual State. It was surprising that the Chairman/Rapporteur should make a reference to talks between the Cuban authorities and the High Commissioner for Human Rights without knowing the details of those talks.

72. Mr. TOSEVSKI (Chairman/Rapporteur of the Working Group on Enforced or Involuntary Disappearances), introducing the Working Group's report (E/CN.4/1996/38 and Corr.1) said that enforced disappearances had become a worldwide phenomenon occurring mainly in situations of social or ethnic tension or of internal armed conflict and often engineered by security forces or by groups or individuals with their support. However, as article 7 of the Declaration on the Protection of All Persons from Enforced Disappearance provided, no circumstance whatsoever might be invoked to justify enforced disappearances.

73. Since the resolution of such conflict situations was the best response to disappearances, the international community must endeavour to find and implement political settlements. In that connection, the inclusion of strong human rights components in peace-keeping operations was of particular relevance, as the missions in Cambodia and El Salvador had demonstrated.

74. Regretting the fact that very few Governments had established mechanisms to prevent the occurrence of involuntary disappearances and to clarify existing cases, he noted that the appointment of an ombudsman in El Salvador and the activities of the National Commission for Human Rights of Mexico, were particularly relevant and deserved the full support of the international community. The Group also appreciated the desire for full cooperation expressed by the Government of Iran and the Government of Turkey's renewed efforts in investigating individual cases of disappearance.

75. Progress in the domestic implementation of the Declaration had been extremely slow. Only a few countries had enacted special legislation and most Governments seemed not to be fully aware of their responsibilities under the Declaration. With a view to making the Declaration better known and to drawing the attention of Governments to their responsibilities, therefore, the Group had begun to adopt general comments on specific provisions of the Declaration.

76. The Group's primary concern continued to be individual cases. In the previous year, it had transmitted 824 new cases to the Governments concerned and currently had over 43,000 cases under active consideration. While only a fraction of the cases had been clarified, the fact that the Group was able to help such clarification and, thus possibly to save lives, had been considered sufficient reason for its continuance. The current financial crisis facing the Organization was thus of serious concern. Every effort had been made to economize wherever possible, but the Group's work was being seriously hampered. For instance, it had been unable to carry out its planned visit to Colombia.

77. Mr. GUIDETTI (Observer for Switzerland) said that, despite the adoption of a number of international instruments, torture was still very much on the Commission's agenda. His delegation thus welcomed the progress made by the

Working Group in drafting an optional protocol to the Convention against Torture. The Special Rapporteur's concern regarding the inadequacy of the information received from many Member States could best be allayed by in situ visits and it was to be hoped that Governments would respond positively to his approaches and make prompt arrangements for such visits.

78. The practice of enforced or involuntary disappearances was another manifestation of human barbarism and too few Governments had introduced domestic legislation and machinery to suppress it. There again, in situ visits were an appropriate response and it was regrettable that a number of Governments had not replied to or had refused requests by the Working Group concerning such visits.

79. His delegation endorsed the requests by a number of thematic and ad hoc mechanisms concerning the urgent need to strengthen coordination between the various human rights activities. Such coordination was particularly recommended for the preparation and follow-up to country visits and for the elaboration of recommendations and their implementation. The annual meeting of the special rapporteurs and chairmen of working groups was a step in the right direction.

80. Mr. LEMA PATINO (Observer for Bolivia) said that his Government had made a number of changes in the country's legal system designed to provide greater protection for human rights, especially in the administration of criminal justice. He gave details of several new and amended laws, noting that imprisonment for debt had been abolished and that a law on domestic violence had been introduced which was based on the International Convention on the Elimination of All Forms of Discrimination against Women.

81. As far as the fight against narcotics trafficking in relation to human rights was concerned, the Government had eliminated, through the law on oath in lieu of bail, unconstitutional aspects of Law 1008 (Law on Controlled Substances) by introducing pre-trial release. In addition, the Ministry of Justice had established a human rights office to protect the inhabitants of the Chimore region where the security forces were particularly active in combating narcotics trafficking.

82. Mrs. MARKIDES (Observer for Cyprus) said that the extremely slow progress made in national implementation of the Declaration on the Protection of all Persons from Enforced Disappearance and the increase in the number of unclarified cases of disappearance were most regrettable. In her own country, the Committee on Missing Persons currently had before it the cases of 1,493 missing Greek Cypriots and 500 missing Turkish Cypriots. The investigations into the first group of cases of missing Turkish Cypriots had yielded information of convincing value. It was to be hoped that similar information would also be presented with respect to the cases of the missing Greek Cypriots. For that purpose, the cooperation of the Republic of Turkey was essential, and the recent statement by the Turkish Cypriot leader, Mr. Denktash, that the missing Greek Cypriots had been murdered after they had been handed over to Turkish Cypriot "fighters" by the Turkish army was far from helpful.

The meeting rose at 1 p.m.